**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**INCOME TAX APPEAL NO.991 OF 2000**

The Commissioner of Income Tax,
Bombay City X, Bombay .. Appellant
V/s
M/s.Goradia Investment Co. .. Respondent

Dr.P.Daniel for the Appellant.

**CORAM: S.RADHAKRISHNAN &**
**J.H.BHATIA, JJ.**

**DATE : 28.06.2005.**

**P.C.:**

1. Heard the learned Counsel for the Appellant. The following substantial questions of law have been raised in the present Appeal.

i) "Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in confirming the order of C.I.T.(A) in deleting the income of Rs.9,50,000/- for surrendering lease rights & holding that the receipt of Rs.9,50,000/- was not only for surrender of land but also surrender of the structures, even though the terms of surrender of lease dated 5.7.1995 clearly state that the amount is paid for surrender of lease hold rights? "

ii) "Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in confirming the order of C.I.T.(A) thereby allowing the capital loss claimed by the assessee? "

2. We have perused the Tribunal's judgment and order. Specially for the reasons stated in Paragraph No.9 of the said order, it is clear that what was surrendered was not only the right over the leasehold land but also the super structure built thereon. In fact, clause 7 of the Lease Agreement also makes it clear that the tenant of the Lessee had also become a tenant of the Lessor. Thus the issue involved is purely based on the finding

of facts. There is no substantial question of law involved in this Appeal. Appeal therefore stands dismissed.

**(S.RADHAKRISHNAN J.)**

**(J.H.BHATIA J.)**